

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ISAIAS R. ORTIZ,)	
)	
Petitioner,)	
)	
v.)	Civ.Act.No. 07-421-***(MPT)
)	
ELIZABETH BURRIS , Acting Warden)	
and JOSEPH R. BIDEN, III , Attorney)	
General for the State of Delaware)	
)	
Respondents.)	

MOTION FOR EXTENSION OF TIME

Pursuant to Rule 6 of the Federal Rules of Civil Procedure, respondents move for an extension of time in which to file an answer to the petition. In support thereof, respondents state the following:

1. The petitioner, Isaias R. Ortiz, has applied for federal habeas relief, alleging error in his state criminal proceedings. D.I. 3. By the terms of the Court's order, the answer is due to be filed on November 13, 2007.

2. Counsel has been, and continues to be, diligently working on numerous cases before this Court and the state courts. Counsel is doing his best to prioritize cases by date received. Further, the Chief of the Appeals Division must review all filings prior to submission and has been unable to do so due to his own substantial caseload. In light of the situation, additional time is needed to complete the answer and have it reviewed in the ordinary course of business.

3. Under Habeas Rule 4, the Court has the discretion to give respondents an extension of time exceeding the 40-day limit in Civil Rule 81(a)(2). *Clutchette v. Rushen*,

770 F.2d 1469, 1473-74 & n.4 (9th Cir. 1985); *Kramer v. Jenkins*, 108 F.R.D. 429, 431-32 (N.D. Ill. 1985). The comment to Rule 4 expressly states that the district court has "the discretion to take into account various factors such as the respondent's workload" in determining the period of time that should be allowed to answer the petition.

4. This is respondents' first request for an extension of time in this case.
5. Respondents submit that an extension of time to and including December 21, 2007, in which to file an answer is reasonable. Respondents submit herewith a proposed order.

/s/ James T. Wakley
Deputy Attorney General
Department of Justice
820 N. French Street
Wilmington, DE 19801
(302) 577-8500
Del. Bar. ID No. 4612

DATE: November 9, 2007

RULE 7.1.1 CERTIFICATION

I hereby certify that I have neither sought nor obtained the consent of the petitioner, who is incarcerated and appearing *pro se*, to the subject matter of this motion.

/s/ James T. Wakley
Deputy Attorney General
Department of Justice
820 N. French Street
Wilmington, DE 19801
(302) 577-8500
Counsel for Respondents

Date: November 9, 2007

CERTIFICATE OF SERVICE

I hereby certify that on November 9, 2007, I electronically filed the attached documents with the Clerk of Court using CM/ECF. I also hereby certify that on November 9, 2007, I mailed, by United States Postal Service, the same documents to the following non-registered participant:

Isaias R. Ortiz
SBI # 00480744
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

/s/ James T. Wakley
Deputy Attorney General
Department of Justice
820 N. French Street
Wilmington, DE 19801
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Del. Bar. ID No. 4612
james.wakley@state.de.us

Date: November 9, 2007

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General for the State of Delaware)	
)	
Respondents.)	

ORDER

This ____ day of _____, 2007,

WHEREAS, respondents having requested an extension of time in which to file an answer, and

WHEREAS, it appearing to the Court that the requested extension is timely made and good cause has been shown for the extension,

IT IS HEREBY ORDERED that respondents' answer shall be filed on or before December 21, 2007.

United States District Judge